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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT SEATTLE

10                   CASCADE YARNS, INC.,

11                   Plaintiff,

12                   v.

13                   KNITTING FEVER, INC., et al.,

14                   Defendants,

15                   v.

16                   ROBERT A. DUNBABIN, et al.,

17                   Third Party Defendants.

Case No. 10-cv-00861-RSM-JPD

DISCOVERY ORDER – 2

This matter comes before the Court on Plaintiff's motion regarding the sufficiency of the responses to Plaintiff's requests for admission ("RFAs") filed by Defendants Knitting Fever, Inc., KFI, Inc., Designer Yarns, Ltd., and Debbie Bliss (hereinafter "Defendants"). Dkt. 668. Plaintiff served 180 RFAs on Defendants regarding the existence of income from certain yarn, and the existence of profit (and whether it was reinvested in Defendants' business) from the sale of that yarn. *See* Quite Decl. (Dkt. 669), Exs. A-D. Characterizing those RFAs as irrelevant and not reasonably likely to lead to the discovery of admissible evidence, the

1 Defendants objected to the RFAs and refused to either admit or deny the RFAs. *See* Guite  
2 Decl. (Dkt. 669), Exs. A-H.

3 A party is entitled to conduct discovery on any matter that is “relevant to the claim or  
4 defense of any party.” Fed. R. Civ. P. 26(b)(1). A matter is “relevant” if it is either admissible  
5 or “appears reasonably calculated to lead to the discovery of admissible evidence.” *Id.*  
6 Federal Rule of Civil Procedure 36 authorizes RFAs, which must be either answered or denied,  
7 or the answering party must “state in detail why [it] cannot truthfully admit or deny it.” Fed.  
8 R. Civ. P. 36(a)(4).

9 According to Defendants, Plaintiff’s RFAs are not relevant to this case because they are  
10 relevant only to a RICO claim, and there is no valid civil RICO claim stated in the operative  
11 version of the complaint. *See* Dkt. 668 at 2:3-6. Defendants filed a motion for judgment on  
12 the pleadings against Plaintiff’s putative civil RICO claims on June 16, 2011, and that motion  
13 remains pending before Judge Martinez. *See* Defs.’ Mot. (Dkt. 274). Defendants’ pending  
14 motion for judgment on the pleadings does not request that discovery be stayed while the  
15 motion is pending.

16 Plaintiff argues that, as it did in its Opposition to the motion for judgment on the  
17 pleadings, that its current complaint sufficiently pleads civil RICO claims and that leave to  
18 amend should be granted if Judge Martinez disagrees. *See* Pltf.’s Opp’n (Dkt. 308). Plaintiff  
19 also argues that even if it is assumed for the sake of argument that civil RICO claims are not at  
20 issue in this case, the RFAs are still relevant because they relate to the unchallenged Lanham  
21 Act claims.

22 The Court disagrees that Plaintiff’s RFAs are “equally relevant” to Plaintiff’s Lanham  
23 Act claims. Dkt. 668 at 6:1. As noted by Defendants, though a successful plaintiff may be  
24 entitled to a defendant’s profits under the Lanham Act, “[Plaintiff] does not even try to explain  
25 how admitting the fact of a profit on a particular yarn would advance its proposed damages  
26 calculation, nor does it explain why requests related to the derivation of income and

1 reinvestment of profit are at all relevant to its Lanham Act claim.” Dkt. 668 at 12 n.10. Thus,  
2 the Court agrees with Defendants that the relevance of Plaintiff’s RFAs depends on Judge  
3 Martinez’s ruling on the pending motion for judgment on the pleadings.

4 In light of the pendency of that motion, the Court will STAY this Rule 37 submission  
5 until after Judge Martinez has ruled on the pending motion (Dkt. 274). Within three days of  
6 the entry of Judge Martinez’s ruling on that motion, the parties are directed to file a joint  
7 memorandum (no longer than three pages total) with this Court to indicate if judicial resolution  
8 of this issue is still needed and if so, whether any additional briefing is necessary.

9 DATED this 19th day of June, 2012.

10   
11 JAMES P. DONOHUE  
12 United States Magistrate Judge

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